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MONTANA LEGISLATIVE HISTORY

Chapter 424 1995

Bill H 462 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Labor & Employment		
Hearing Date(s)	2-13	✓ C	Hearing Date(s)	3-2	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

House BILL NO. 462

INTRODUCED BY Ernest Johnson Willard Harp Bendixt Nelson Anderson

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN WORKERS' COMPENSATION LAWS; DEFINING "VOLUNTEER"; INCLUDING CERTAIN VOLUNTEER FIREFIGHTERS AND AMBULANCE SERVICE WORKERS IN THE DEFINITION OF EMPLOYEE; EXEMPTING A VOLUNTEER FROM THE COVERAGE UNDER THE WORKERS' COMPENSATION LAWS UNLESS COVERAGE IS ELECTED; AUTHORIZING THE BOARD OF INVESTMENTS TO INVEST STATE FUND MONEY IN COMMON STOCK UNDER CERTAIN CONDITIONS; AUTHORIZING THE STATE FUND TO USE EXISTING DEBT COLLECTION PROCEDURES AS AN OPTION; AMENDING SECTIONS 39-71-118, 39-71-2320, AND 39-71-2363, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined. (1) The terms "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for the corporations for pay. Casual employees as defined by 39-71-116 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with

an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined in this subsection while they are on the premises of a public school or community college.

(d) students enrolled and in attendance in programs of vocational-technical education at a designated vocational-technical ~~centers~~ program within a unit of the university system;

(e) an aircrew member or other person employed as a volunteer under 67-2-105;

(f) a person, other than a juvenile as defined in subsection (1)(b), performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (f):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(g) an inmate working in a federally certified prison industries program authorized under 53-1-301~~.~~; and

(h) a person who is an enrolled member of a volunteer fire department as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment; ~~or~~

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities; or

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined

in 39-71-123.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

~~(3)~~(4) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire company organized and funded by a county, a rural fire district, or a fire service area.

~~(4)~~(5) (a) If the employer is a partnership or sole proprietorship, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business.

(b) In the event of an election, the employer ~~must~~ shall serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection ~~(4)(d)~~ (5)(d). A partner or sole proprietor is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the electing employer may elect not less than $900 a month and not more than 1 1/2 times the average weekly wage as defined in this chapter.

~~(5)~~(6) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

~~(6)~~(7) An employee or worker in this state whose services are furnished by a person, association, contractor, firm, or corporation, other than a temporary service contractor, to an employer as defined in 39-71-117 is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

~~(7)~~(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection ~~(7)(b)~~ (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

~~(8)~~(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection ~~(7)(b)~~(8)(b) or ~~(7)(d)~~(8)(d) as a condition of approving the election under subsection ~~(7)(d)~~(8)(d)."

Section 2. Section 39-71-2320, MCA, is amended to read:

"**39-71-2320. Property of the state fund -- investment required -- exception for common stock.** (1) All premiums and other money paid to the state fund, all property and securities acquired through the use of money belonging to the state fund, and all interest and dividends earned upon money belonging to the state fund are the sole property of the state fund and must be used exclusively for the operations and obligations of the state fund. The money collected by the state fund may not be used for any other purpose. However, state fund money must be invested by the board of investments provided for in 2-15-1808. Except as provided in subsection (2), state fund money may be invested in common stocks

(2) State fund money may be invested in common stocks of a corporation if the investment does not cause the book value of state fund investments to exceed 15% of the book value of the fund or does not cause the stock of one corporation to exceed 2% of the book value of the state fund."

Section 3. Section 39-71-2363, MCA, is amended to read:

"**39-71-2363. Agency law -- submission of budget -- annual report.** (1) The state fund is subject to state laws applying to state agencies, except as otherwise provided by law, and it is exempt from the

provisions of The Legislative Finance Act in Title 5, chapter 12, and the provisions of Title 17, chapter 7, parts 1 through 4. The state fund may use the debt collection procedures provided in Title 17, chapter 4, part 1.

(2) The executive director shall annually submit to the board for its approval an estimated budget of the entire expense of administering the state fund for the succeeding fiscal year, with due regard to the business interests and contract obligations of the state fund. The administrative expenditures approved by the board may not exceed 15% of the earned annual premium of the prior fiscal year. A copy of the approved budget must be delivered to the governor and the legislature.

(3) The board shall submit an annual financial report to the governor and to the legislature as provided in 5-11-210, indicating the business done by the state fund during the previous year and containing a statement of the estimated liabilities of the state fund as determined by an independent actuary."

NEW SECTION. **Section 4. Coordination instruction.** If _ Bill No. _ [LC 648] is not passed and approved by the electorate, then [section 2 of this act] is void.

NEW SECTION. **Section 5. Effective dates.** [Sections 1, 3, and 4 and this section] are effective on passage and approval.

(2) [Section 2] is effective July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0462, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act revising certain workers' compensation laws; defining "volunteer"; including certain volunteer firefighters and ambulance service workers in the definition of employee; exempting a volunteer from the coverage under the workers' compensation laws unless coverage is elected; authorizing the board of Investments to invest State Fund money in common stock under certain conditions; authorizing the State Fund to use existing debt collection procedures as an option.

ASSUMPTIONS:
1. State fund investment in common stock is contingent upon passage of HB463 which would place a constitutional amendment on the ballot allowing the State Fund to invest in private corporate capital stock.
2. The State Fund Annual Report, as of 6/30/94, placed the "book value" of State Fund invested assets at $347,039,447; 15% of the book value fiscal year 1994's total invested assets is $52,055,917.
3. The fiscal year 1994 Montana common stock pool return was 6.42%. The fiscal year 1994 State Fund rate of return on investments was 5.02%.
4. The State Fund would not be eligible to invest in common stock until July 1, 1997.
5. The definition of "employee" or "worker" will include enrolled members of volunteer fire departments under 7-33-4109,MCA (second class cities) and ambulance services under 7-34-1,MCA (any county, city or town).
6. A person performing service as a "volunteer" is not entitled to workers' compensation coverage for injuries resulting from the service, unless this person would otherwise be entitled to coverage. "Volunteer" is defined specifically for this purpose as a person who performs services on behalf of an employer, as defined in 39-71-117,MCA, but who does not receive wages as defined in 39-71-123,MCA.
7. With the approval of the insurer and employer may elect to include as an employee volunteers, as defined by 39-71-118(2)(c),MCA.
8. The State Fund will continue to use the services of the State Auditor's Office for debt collection. The State Fund may also use the debt collection services of private vendors as necessary.

FISCAL IMPACT:
If the State Fund had the option of investing in common stock in FY94, an additional $728,000 in investment income would have been generated. Additional investment income would tend to reduce premium rates in the long term.

The changes in the definitions of volunteer are for clarification purposes and have no fiscal impact. There would be no fiscal impact result from the State Fund being allowed to use the debt collection services of the private sector.

Dave Lewis 2-11-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

David Ewer
DAVID EWER, PRIMARY SPONSOR DATE

HB 461 INTRODUCED BY RYAN, ET AL.

CREATE MONTANA EMERGENCY RESPONSE TO HAZARDOUS MATERIAL INCIDENTS ACT

2/07	INTRODUCED		
2/07	FIRST READING		
2/07	REFERRED TO HUMAN SERVICES & AGING		
2/08	FISCAL NOTE REQUESTED		
2/13	HEARING		
2/14	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	93	6
2/21	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO NATURAL RESOURCES		
3/08	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/17	2ND READING CONCURRED	46	0
3/18	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/20	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 270		
	EFFECTIVE DATE: 03/28/95		

HB 462 INTRODUCED BY EWER, ET AL.

REVISE CERTAIN WORKERS' COMPENSATION LAWS AND DEFINE "VOLUNTEER"

2/07	INTRODUCED		
2/07	FIRST READING		
2/07	REFERRED TO BUSINESS & LABOR		
2/08	FISCAL NOTE REQUESTED		
2/13	HEARING		
2/13	FISCAL NOTE RECEIVED		
2/13	FISCAL NOTE PRINTED		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	91	7
2/18	3RD READING PASSED	90	8
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/02	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/09	2ND READING CONCURRED	39	8
3/10	3RD READING CONCURRED	34	11
	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	92	4
4/05	3RD READING AMENDMENTS CONCURRED	89	8
4/07	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 424		
	EFFECTIVE DATE: 04/13/95—SECTIONS 1, 2 & 4-6		
	EFFECTIVE DATE: 07/01/97—SECTION 3		

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REFERRED	DATE READ
HB0264	ELLIS, ALVIN 2/06	3/09	REVISE UNFAIR LABOR LAW TO EXCLUDE WAGE INCREASE IN EXPIRED AGREEMENT	CONCUR 3/14 VOTE: 6-3		3/16
HB0272	STOVALL, JAY 2/20	3/11	CLARIFYING TIP DEFINITION TO INCLUDE SERVICE CHARGE	CONCUR AS AMENDED 3/14 VOTE: 6-3		3/17
HB0414	HARPER, HAL 2/20	3/09	REVISE THE NAME/DUTIES OF THE WORKERS COMP CLASSIFICATION & REVIEW COMMITTEE	CONCUR 3-14 VOTE: 9-0		3/16
HB0432	WISEMAN, WILLIAM 3/01	3/09	TRANSFER FIRE AND BOILER SAFETY & INSPECTION FUNCTIONS TO DEPT OF COMMERCE	TABLED ON 03/15 VOTE:		
HB0462	EWER, DAVID 2/21	3/02	REVISE VOLUNTEER STATUS UNDER WORK COMP AND ALLOW FUND MONEY IN COMMON STOCK	CONCUR AS AMENDED 3/2 VOTE: 9-0		3/06
HB0463	EWER, DAVID 2/21	3/02	CONSTITUTIONAL AMENDMENT; ALLOW STATE FUND MONEY TO BE INVESTED IN EQUITIES	CONCUR 3/6 VOTE: 9-0		3/06
SB0016	AKLESTAD, GARY 1/02	1/03	ELIMINATE SPECIAL LEGISLATIVE REVIEW OF JTPA UNLESS FUNDED WITH JTPA FUNDS	DO PASS 3/5 VOTE: 9-0		1/06
SB0033	KEATING, TOM 1/02	1/05	ELIMINATING THE $25 MINIMUM WORKERS' COMP OLD FUND LIABILITY TAX	PASS AS AMENDED 1/10 VOTE: 9-0		1/11
SB0080	KEATING, TOM 1/10	1/17	EXEMPT NEWS EDITORS, RADIO ANNOUNCERS, CERTAIN ENGINEERS FROM OVERTIME LAWS	DO PASS 1/19 VOTE: 6-3	LABOR & EMPLOYMENT	1/20
SB0080	KEATING, TOM 1/23		EXEMPT NEWS EDITORS, RADIO ANNOUNCERS, CERTAIN ENGINEERS FROM OVERTIME LAWS	PASS AS AMENDED 1/31 VOTE: 6-3		2/01
SB0085	BENEDICT, STEVE 1/10	1/26	REMOVE PREVAILING WAGE REQUIREMENT FOR CERTAIN STATE PUBLIC WORK CONTRACTS	PASS AS AMENDED 2/9 VOTE: 5-4		2/09
SB0110	KEATING, TOM 1/12	1/31	REPEAL UNINSURED AND UNDERINSURED EMPLOYER LAWS	TABLED ON 02/20 VOTE:		

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN TOM KEATING**, on March 2, 1995, at 3:00 p.m.

ROLL CALL

Members Present:
Sen. Thomas F. Keating, Chairman (R)
Sen. Gary C. Aklestad, Vice Chairman (R)
Sen. Steve Benedict (R)
Sen. Larry L. Baer (R)
Sen. James H. "Jim" Burnett (R)
Sen. C.A. Casey Emerson (R)
Sen. Sue Bartlett (D)
Sen. Fred R. Van Valkenburg (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Council
Mary Florence Erving, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 462, HB 463
Executive Action: HB 462, HB 463

{Tape: One; Side: One}

HEARING ON 462

Opening Statement by Sponsor:

REPRESENTATIVE DAVID EWER, HD 93, Helena, MT, stated SB 462 is a act revising certain Workers' Compensation laws; defining "volunteer"; including certain volunteer firefighters and ambulance service workers in the definition of employee; exempting a volunteer from the coverage under the Workers' Compensation laws unless coverage is elected; authorizing the Board of Investments to invest State Fund money in common stock under certain conditions; and authorizing the State Fund to use existing debt collection procedures as an option. **REPRESENTATIVE DAVID EWER** stated he worked on a Select Committee with **SENATOR STEVE BENEDICT** and others; and consequently, gained Workers' Comp

experience in the process of drafting bills. House Bill 462 is a vehicle to accommodate various changes in the Workers' Compensation law. There are four disparate parts. First, on line 16, page one, the definition of a volunteer for local government is clarified. The SRS department requested legislation to enable the Medicaid offices to receive appropriate monies when payment is made in conjunction with Workers' Compensation payments. The legislation would enable the State Fund to invest part of the monies in common stock through the Board of Investments. Currently, the Board of Investments is authorized under statutes to invest pension monies in a common stock pool. The board already has three, pooled investment programs. They are called the pooled stock, pooled bond program, and pooled short term investment pool. A companion bill, HB 463, will be introduced after HB 462. The legislation would create a constitutional initiative. House Bill 462 further defines what the State Fund limiting parameters are concerning investment. House Bill 462 is a good provision. Increased earnings could result. State Fund could write a policy and the contingent liability on that policy could be active for a generation. Premiums could be received, but the beneficiaries/employees may not opt to take out premiums for 20 to 25 years. It would be appropriate at this time to empower the State Fund to be able to invest in equities. Other U.S. state funds have investment programs in place, as do insurance companies. The legislation is within bounds of accepted industry practices. Current Montana law allows investment companies to invest up to fifty percent of invested assets' book value into stocks. By law, State Fund must invest money through the Board of Investments. **REPRESENTATIVE EWER** acknowledged that he is employed by the Board of Investments as a bond program officer and manages various bond loan programs. The job description excludes any investment activity concerning the proposed HB 462's funds. The legislation allows for the potential higher earning capacity, and hopefully, the legislation would lower premiums for Montana businesses. The State Fund uses the State Auditor to collect bad debts. House Bill 462 would allow the State Fund to use other debt collection procedures.

Proponents' Testimony:

Stan Kaleczyc, Montana Municipal Insurance Authority, and the Montana Schools' Group Insurance Authority, Helena, MT, stated he represents the two largest public entities, self insurance pools for Workers' Compensation in Montana. The cities and town program, MMIA, provides Workers' Compensation coverage for approximately 94 percent of all municipal employees. The school's group program provides coverage for approximately 25,000 teachers and other support people. **Mr. Kaleczyc** stated the first part of the proposed legislation, concerning volunteers, is acceptable to the groups represented. The latter half of the bill deals entirely with the internal functions of the State Fund. The volunteer problem, under existing statute, is simple. State Workers' Compensation coverage is mandatory. Coverage must be provided for a covered volunteer, but the law does not describe

who is considered a covered volunteer. The bill clarifies the fact that municipal fire fighters and municipal ambulance drivers would be covered under the Workers' Compensation program, even though the volunteers would not receive pay. The bill addresses all other volunteers. Cities, towns and schools use various volunteers in many different ways. Evolved law states that people who are volunteers do not have to be paid to be considered an employee for Workers' Compensation purposes, provided the volunteer is under the direction and control of an employee.

House Bill 462 provides an option. The insurers and the employers may decide to cover volunteers, even if they do not receive wages. The proposed legislation places the option with the "employer". The reason: The employer may want the exclusive remedy provision in a small school district, but the cost would be prohibited in a large school district. The Billings school district has many volunteers for many activities. It could be cost prohibitive for the Billings district to pay premiums, so they can elect not to come under the exclusive remedy provision. The district could elect to take the regular law suit risk, if a volunteer happens to have an accident. **Mr. Kalecyz** urged support of HB 462.

Rick Hill, State Fund Board of Director, President, Helena, MT, addressed investment of equities topic, regarding State Fund practices. House Bill 462 would enact the provision of HB 463, if both receive a DO PASS consideration by Montana Voters. The State Fund attempted to identify strategies which could be implemented to maximize returns and lower costs of Workers' Compensation. The board looked at the rate of investment returns. **Mr. Hill** stated investment earnings are also used in rate calculations, as well as in premium calculations. The rate of return on the investment portfolio had not been sufficient. In fact, the rate was the lowest rate in the entire United States. The State Fund examined what happened to other state funds and insurance companies, regarding investment. Equity investment is a forefront option. The American State Fund Group surveyed twelve out of twenty individual state funds, which were allowed by statutes to invest in equities. The percentage of the investments ranged from .5% to 25%. Six out of eight other regional state funds were allowed to invest in equities. At present rate of interest, the Montana Common Stock Board, Board of Investments yielded eight percent, while the State Fund yielded only 5.7 % return. There was $310M State Fund money invested at the end of last fiscal year. Sixty one million dollars goes into the STIP account. If the State Fund had been allowed to invest 15% of assets into equities, it is estimated that the State Fund would have achieved about $2M additional investment earnings in the new fund, which could have been applied to the surplus. For every $1M increase in returns, the State Fund can realize a 3% reduction in rates. Because Workers' Compensation benefits are paid out over long periods of time, the benefits are more like pension benefits than they are any other. Up to 50% of retirement funds can now be invested in securities.

The practice is commonly done. Private insurance companies that do business are allowed to invest ten percent in equities and 5% in mutual funds. House Bill 462 would put the State Fund on a par with private insurance companies.

Nancy Butler, State Fund, stated support for HB 462. Section one basically codifies what the State Fund has been doing as they handle volunteers. Second two amends the Workers' Compensation laws to provide the payment of benefits to the Workers' Compensation act is subjected to attachment when SRS or a county is obtaining legal assistance on behalf of a recipient for the same injury. Section four addresses the debt collection. Currently, state agencies are requiring debt collection matters be sent to the State Auditor. Insurance is unique collection situation. There are private firms that specialize in collection insurance premiums. State Fund is looking for an option of using such firms in appropriate and cost effective matter. Although the State Auditor's office will continue to be used, the option is necessary.

Jim Tutweiler, Montana Chamber of Commerce, Helena, MT stated support of HB 462. On behalf of Montana's 900 businesses, the Chamber believes HB 462 is a positive approach with potentially positive return. There is a question about what Workers' Compensation costs have been. The committee is aware of the high cost of Workers' Compensation. One of the costs is that Montana is the only state that is paying an Old Fund Liability Tax. House Bill 462 allows better yielding investments, and has the potential of lowering premium costs down the road. **Mr. Tutweiler** acknowledged the correct direction the State Fund will be allowed to pursue. House Bill 462 has the potential of helping businesses get premiums to go down, partly as a result of this kind of action, making Montana Businesses more competitive. House Bill 462 It is in the best interest of Montanans to take care of businesses. There should be competition between Plan One, Plan Two, and Plan Three. The State Fund must stay in a good position to remain viable and competitive for a balanced option in the casualty insurance arena. The better the competition is, the more healthy the competition. Montana Businesses will have a better serving capacity, due to the options.

George Wood, Secretary of the Montana Self-Insurers Association, stated support for the volunteer issue. Testimony indicated that a good number of volunteer work in the public sector. Members of the association have a large number of health care organization volunteers, such as hospital candy stripers and older volunteers. A definition is needed.

Bob Worthington, Programs Administrator, MMIA, stated the association insures 89 cities and towns across the state. The association has been educating the communities regarding the difficulty in covering volunteers in coverage. Many leaders have decided not to pursue volunteer project, simply because of the negative exposure. **Mr. Worthington** urged support of HB 462.

Greg Jackson, Joint Powers Insurance Authority (JPIA) Marketing Director, appearing on behalf of Ray Barnicoat, MACo Risk Manager, Montana Association for Counties, Workers' Compensation Trust. **Mr. Jackson** stated support of HB 462, volunteer provision.

Jacqueline Lenmark, American Insurance Association, AIA, stated support for the volunteer portion of HB 462.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

SENATOR EMERSON asked **Mr. Hill** who makes investments. **Mr. Hill** stated the Board of Investments makes the investments.

CHAIRMAN KEATING asked **Stan Kaleczyc** if there are premiums paid for the volunteers. **Mr. Worthington** responded for **Mr. Kale.** The program covers firefighters and emergency services. There is a computed monthly wage for the purposes of premium collection. There are very few communities that cover volunteers because they do not have the money to afford the coverage. The department imputes a wage per premium. It is the normal and customary wage a person would be paid for doing the work. **SENATOR KEATING** stated there would be an imputed wage for a volunteer. That premium is paid by the self-insured. **CHAIRMAN KEATING** asked George Wood about the self-insured group. If one of the hospital volunteers get injured, does that hospital have to satisfy the claim. **Mr. Wood** said yes, in one of two ways. If the employer has included the volunteer as an employee, they get Workers' Compensation benefits. If not, the common law remedies are available to the candy striper. By in large, the volunteers in such a mode are not covered. They could be, under the new legislation, if an agreement is made that some liability is relieved. **Mr. Wood** stated his company does not collect premiums **CHAIRMAN KEATING** stated there would be coverage for volunteers, and the self-insurers could be able to choose. **Mr. Wood** stated that would be strictly a management decision of each of the individual self insurers. The association has no control over what actions are taken. They act independently. Self Insurance allows the company to pay the claimants.

CHAIRMAN KEATING asked **Nancy Butler** about section 4, concerning collection. Will the State Fund use professional or private collection groups to collect bad debts. **Ms Butler** stated specialty collection agencies focus on insurance premium collection practices for all different types of debt. Some of

the specialties are the exceptionally large debts or out-of-state-debts.

CHAIRMAN KEATING stated insurance companies invest in equities to offset premiums and reserves. Is the State Fund required to have a certain level of reserves. If the board of investments had slippage in a bad market cycle, would the State Fund be responsible. Would the State Fund have to come up with additional reserves from someplace else to take up the slack. **Mr. Hill** stated the new fund operated in a deficit position for the first two years of operation. The liabilities to claimants exceeded the assets. State Fund now has a surplus. The legislature is mandating a twenty-five percent surplus by 2003. The current investment portfolio of fixed income and securities has a market value of less than what the book value is. The accounting process is a statutory accounting process. The State Fund will carry the investment securities at cost, rather than market value. **CHAIRMAN KEATING** stated the law required the State Fund to be actuarial sound, so a certain reserve must be kept in excess of liabilities. The State Fund can do "phantom accounting" with cost, rather than market value. **Mr. Hill** stated the "phantom accounting practice" is common accounting practice for insurance companies to carry at cost. The reserves are discounted to current value. So in the process of setting the reserve, the State Fund is anticipating a rate of return. The discount factor is based on an anticipated rate of return. The amount in plugged into the rate making process. That is why this issue is critical to the legislation. If the fund can earn greater than the discount factor, the State Fund can lower the discount factor, thereby lowering rates and lower reserves.

SENATOR SUE BARTLETT asked **Eddye McClure** about comparing the provisions in HB 168. Is there any kind of a conflict between the provisions. **Eddye McClure** stated that issue was dealt with in the drafting period. **Mr. Worthington** stated the issue has been looked after. House Bill 168 only deals with rural fire [illegible] and that is not addressed in HB 462. **SENATOR BARTLETT** stated HB 168 talks about what the term volunteer hours means in relations to volunteer fire fighters. HB 462 talks about performing services as a volunteer. **Eddye McClure** stated a volunteer fire fighter is defined in 1733, dealing with different fire fighter. It is different from HB 168.

SENATOR AKLESTAD asked **REPRESENTATIVE EWER** if the dollars will be invested through the State Investment Board and invested under the prudent man rule. Does the money go into a pool of dollars, and then, that money is invested out. If the State Fund bought a common stock with the dollars invested, does the common stock identity follow those dollars. So, if those stocks failed, the particular fund would lose. Or does the whole pool lose. **REPRESENTATIVE EWER** stated the Board of Investments will not carve out a new stock pool, separate just for State Fund. The Board of Investments stock pool is used for the retirement funds. All retirements fund will be used, as will the investment

vehicle. It is a pooled concept. It is not by individual stocks on behalf of the fund. There is a pool established with a whole list of qualified investments. It is a lot more cost effective, and the benefits of diversification are realized, if the retirement funds are several billion dollars. **Mr. Worthington** stated the investment parameters are ones that can be set by the board under the prudent and expert rule. It makes sense not to reinvent the rule.

Eddye McClure stated the committee would want to coordinate the section 3, for July 1, 1995. It is the common stock rather than the SRS. It should not be section two, but rather section three. An amendment is needed for the change. The LC 648 number is still being used. An effective date will be needed. Sections 1, 2, and 4 will be effective with passage and approval. Section 3 will be effective July 1, 1997, which should have been bumped up when the new section two was put into the bill. The date is important because of the constitutional provision.

Closing by Sponsor:

REPRESENTATIVE EWER pointed out the Board of Investments works to liquidate millions of dollars to meet the cast flow deficit of the Old Fund Liability Fund. To liquidate the investments and put them into a lower yield would create a negative situation. The yield was a lot lower, historically, than the national average. Investment of stocks had be prohibited. For a while, Montana was hemorrhaging having to sell bonds and liquidate portfolios for cash. Montana is on the road to recovery in 1995.

HEARING ON HB 463

Opening Statement by Sponsor:

REPRESENTATIVE DAVID EWER, HD 93, stated HB 463 is the companion bill to HB 462 and is a constitutional provision. The bill is an act submitting to the qualified electors of Montana an amendment to article VIII, Section 13, of the Montana Constitution to allow State Compensation Insurance Fund money to be invested in private corporate capital stock. Line 17, "Except for monies contributed to retirement funds or monies in the State Compensation Insurance Fund, no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the Governor and legislature." This would permit the State Compensation Insurance Fund to invest, and with HB 462 provisions, the legal parameters will be identified. House Bill 463 is good public policy. It is ironic that pension money can be invested in stocks, but the state cannot invest coal severance tax dollars in stock. The prospects of higher yield is positive. Investments over the long term, 20 to 25 years, are the best investment of stocks. The common stocks capture a higher rate of return, and have the prospects of additional reserves and lower premiums.

write the proposal for the sake of clarity, it is prudent to do so.

SENATOR KEATING asked **REPRESENTATIVE EWER** to clarify his prior reference concerning "cleaning up, or selling out" a fund in order to convert the fund to cash. **REPRESENTATIVE EWER** replied before there was a New Fund and the Old Fund, there was the Work Comp Fund. The Work Comp fund has a separate account with the Board of Investment. The investments were primarily in long term bonds. For sixty years of more, the state situation was solvent. There was a positive cash flow, the reserves were built up, For a number of reasons, the late 1970s and early 1980s, cash flow diminished, claims went up, pay out increased over cash flow, long term fixed income investments had to be sold, and that accelerated the point of absolute crisis. The State Fund accrued an Unfunded Liability of $400M and are currently "stuck" with employer and employee payroll tax. This tax is unprecedented in the nation. **SENATOR KEATING** asked if The Old Fund Investment Pool is gone. **REPRESENTATIVE EWER** replied The Old Fund Investment Pool was sold out, and the State went broke.

Closing by Sponsor:

REPRESENTATIVE EWER stated the limit probably should be stated in the Constitution. Although, a better prospect may be to stay with the limitation list. On the other hand, 15 percent may not be the right amount.

SENATOR BARTLETT stated she thinks that people vote against things they don't understand more readily than they vote against things they do understand.

SENATOR KEATING asked the committee if there are objections to taking Executive Action on HB 462. No objections were stated.

EXECUTIVE ACTION ON HB 462

Motion:

SENATOR SUE BARTLETT MOVED HB 462 BE CONCURRED IN.

Motion:

SENATOR BILL WILSON Moved to AMEND HB 462

Discussion:

Eddye McClure stated HB 462 requires an amendment. **SENATOR KEATING** stated the amendment will be on page 6, line 11, Line 9, changes from "2" to "3". Line 11, will correct the internal. One, two, and four are effective at passage and approval. Section 3 will be effective in 1997. **SENATOR KEATING** stated on line 2, we change "3" to "2", and on line 13, we change "2" to

"3". **SENATOR BENEDICT** stated, on line 8, the bill number "HB 463", will be added.

Vote:

The motion to amend HB 462 CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR KEATING stated the committee has the original motion, **HB 462 BE CONCURRED IN as AMENDED. The motion carried UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 463

Motion:

SENATOR GARY AKLESTAD moved HB 463 BE CONCURRED IN.

Discussion:

SENATOR BARTLETT asked **Eddye McClure** if the committee included the State Workers' Compensation Insurance Fund would the legislation incur legal problems. The question concerns the ballot statements and the title because that would be the only printing made on the ballot. **Eddye Mcclure** stated the language would be limited to 25 words in the "for and against" and 100 words in the title. As long as the language would be clear. The question would be "what do we call it", State Fund money. Are they called Workers' Compensation State Fund. **SENATOR BENEDICT** stated the correct term is "State Compensation Insurance Fund".

SENATOR KEATING stated the bill is actually amending the Constitution, so the formal name has to appear in the Constitution. **SENATOR BARTLETT** said it would be section 1, and she did not suggest the committee make a change in section 1. Changes would be made in the HB 462's title and the ballot statements, only. The committee as a whole may feel that by making the change, it would bias people more against the proposal, than for it. If that is the case, **SENATOR BARTLETT** said she would not pursue the matter further. It is important when dealing with the public to be very clear and precise.

SENATOR EMERSON stated the wording was clear. **Eddye McClure** stated the changes are not going to be codified. By using the "up to 25" word to explain, you are not misleading the people, but are being precise. **SENATOR BENEDICT** stated he would resist trying to change the wording for two reasons. One, there is no real strong feeling amongst the voting public about the Workers' Comp arena. People who research ballot issues spend time on the topics, so they will know about the State Compensation Insurance Fund. **SENATOR KEATING** reflected on the response from the bill sponsor, **REPRESENTATIVE EWER,** who had stated discussion had been held, and the language was agreed upon as being the best. The State Fund also stated that the percentages had also been talked

MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE March 2, 1995

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	✓		
SUE BARTLETT	✓		
STEVE BENEDICT	✓		
JIM BURNETT	✓		
CASEY EMERSON	✓		
FRED VAN VALKENBURG	✓		
BILL WILSON	✓		
GARY AKLESTAD, VICE CHAIRMAN	✓		
TOM KEATING, CHAIRMAN	✓		

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SENATE STANDING COMMITTEE REPORT

March 3, 1995

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration HB 462 (third reading copy -- blue), respectfully report that HB 462 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Thomas F. Keating, Chair

That such amendments read:

1. Page 6, line 8.
Strike: "___ Bill No.___ [LC 648]"
Insert: "House Bill No. 463"

2. Page 6, line 9.
Strike: "2".
Insert: "3"

3. Page 6, line 11.
Strike: "3, and 4"
Insert: "2, 4, 5,"

4. Page 6, line 13.
Strike: "2"
Insert: "3"

-END-

Amd. Coord.
Sec. of Senate

_____
Senator Carrying Bill

DATE March 2, 1995

SENATE COMMITTEE ON Labor & Employment Relations

BILLS BEING HEARD TODAY: HB 463 HB 462

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Jacqueline Lenmark	Am. Ins. Assoc	HB462	✓ Volunteer*	
Rick Hill	State Fund	HB462	✓	
Rick Hill	State Fund	HB463	✓	
Jim Gietzen	MT Chamber	HB462	✓	
Jim Gietzen	MT Chamber	HB463	✓	
George Wood	Nat. Self Insurers Assn.	HB462	Part. Volunteer ✓	
Bob Worthington	MMIA	HB462	PFI	
Ray Barnicoat	MACO/CJPA	HB462	✓	
Stan Kaleczyc	MT Municipal Insurance MT Schools Group Insur.	462	Volunteer ✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE -----
-- REREFERRED ---- DATE READ

HB0419	MCCULLOCH, LINDA		REVISE LANDLORD AND TENANT LAW				
	2/03	2/09		TABLED ON	2/13	VOTE: 13-5	
HB0426	RANEY, BOB		LONG-TERM PLANNING FOR MONTANA				
	2/03	2/09		TABLED ON	2/14	VOTE: 18-0	
HB0428	EWER, DAVID		REVISE BANKING LAWS REGARDING MERGERS, BRANCHES, ELECTRONIC FUNDS TRANSFER				
	2/04	2/09		PASS AS AMENDED	2/13	VOTE: 17-1	2/15
HB0432	WISEMAN, WILLIAM		TRANSFER FIRE AND BOILER SAFETY & INSPECTION FUNCTIONS TO DEPT OF COMMERCE				
	2/04	2/10		PASS AS AMENDED	2/13	VOTE: 15-3	2/15
HB0454	HARPER, HAL		REVISE UNIFORM TRADE SECRETS ACT				
	2/07	2/13		DO PASS	2/17	VOTE: 18-0	2/17
HB0458	LARSON, DON		EXEMPT LOCAL GOVTS FROM CERT OF PUBLIC CONVENIENCE FOR HAUL/CONTRACT GARBAGE				
	2/07	2/17		TABLED ON	2/17	VOTE: 15-3	
HB0460	QUILICI, JOE		ESTABLISH TASK FORCE TO EXAMINE TELECOMMUNICATIONS ISSUES AND PROSPECTS				
	2/07	2/13		DO PASS	2/13	VOTE: 17-1	APPROPRIATIONS 2/15
HB0462	EWER, DAVID		REVISE VOLUNTEER STATUS UNDER WORK COMP AND ALLOW FUND MONEY IN COMMON STOCK				
	2/07	2/13		PASS AS AMENDED	2/13	VOTE: 18-0	2/15
HB0463	EWER, DAVID		CONSTITUTIONAL AMENDMENT; ALLOW STATE FUND MONEY TO BE INVESTED IN EQUITIES				
	2/07	2/13		DO PASS	2/13	VOTE: 18-0	2/15
HB0475	FORBES, ROSE		CREATE % ON TRUST FUND PLAN RUN BY MONTANA LAND TITLE ASSOC FOUNDATION				
	2/08	2/14		PASS AS AMENDED	2/14	VOTE: 16-2	2/15
HB0477	SCHWINDEN, DORE		EXPAND RESERVATION GAMING WITH 8% OF REVENUE TO FUND LOCAL GOVERNMENT				
	2/08	2/14		TABLED ON	2/14	VOTE: 12-6	
	HURDLE, JOAN		REPEAL THE MONTANA RETAIL MOTOR FUEL MARKETING ACT				

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on February 13, 1995, at 8:00 AM.

ROLL CALL

Members Present:
Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 454, HB 537, HB 460, HB 462, HB 463,
Executive Action: HB 458, HB 460, HB 463, HB 462, HB 428, HB 408, HB 241 HB 269, HB 419

HEARING ON HB 454

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Lewis and Clark County said this bill was an act revising and updated the Uniform Trade Secrets Act;

Questions From Committee Members and Responses:

REP. TUSS asked to have the barrier removed from Medicaid and Medicare so telecomp conferences could be paid prices on par with consultants.

REP. LARSON said there was an upside to telecommunications as well as a downside and asked if the Task Force is looking at the net job losses that are occurring in Montana as a result of getting on the "information superhighway?" **REP. QUILICI** said yes. If there are downsides that is something to be considered. If the loss of jobs is anticipated, this will also be addressed.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 460

Motion/Vote: **REP. PAVLOVICH MOVED HB 460 DO PASS. Motion carried 17-1 with REP. KEENAN voting no.**

HEARING ON HB 462

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Lewis and Clark County presented amendments to this bill in his opening statement. This bill clarifies the meaning of volunteer and how volunteers can be treated under workers' compensation. The committee is trying to clarify the meaning of volunteer and their relationship to workers' compensation. He also discussed the authorization of the State Fund to be able to invest in the reserves in common stock. Every insurance company has as a major component of its business operations, reserves which are received from the sale of their product which is a service and the premiums which they receive.

Proponents' Testimony:

Oliver Goe, Montana Municipal Insurance Authority/Montana School Groups Insurance Authority said the MMIA was the insurer of cities and towns for approximately 94% of all municipal employees. The MSGI is the insurer for workers' compensation for 25,000 school employees. The bill covers a number of different areas. If a volunteer is not getting a wage it would be expected they would not be covered under workers' compensation. That is not necessarily true. The issue arises out of the fact that there is a section in the Workers' Compensation Act that mentions covered volunteers. There is an attorney general opinion that suggests that volunteer firefighters of second class cities and

towns are entitled to workers' compensation benefits even though they do not get a wage. There is also some precedent in the Supreme Court, although not directly addressing the issue of volunteers, that a wage is not required to be an employee depending upon the degree of control that is exercised over the individual. The issues become more and more important as cities and towns and school districts rely more and more on volunteers.

Bob Worthington, Program Administrator, Montana Municipal Insurance Authority, stated his support of the bill because the volunteer portion of the bill is a very important bill to the cities.

Carl Swanson, President, State Fund, said the aspect of this bill that covers the section on debt service is of concern to the Fund. Like all agencies the Fund is required to use the State Auditor's Office for debt collection. However, some aspects of premium collections for insurance are complex. This bill would allow the Fund to be more closely involved and use the expertise of agencies specializing in insurance premium debt collection. The State Fund still intends to use the State Auditor's Office for debt collection. The Montana Insurance Commission contains regulations which allow state regulated insurers to invest 10% inequities and 5% mutual funds to a total of 15%.

Greg Gould, Department of Social and Rehabilitation Services said he supported the amendment which was proposed. That amendment would insure that where Medicaid has already paid for medical expenses for the injured worker, the worker then receives compensation from workers' compensation. Medicaid would then be paid back. The money would not be just a double payment to the injured worker.

David Owen, Montana Chamber of Commerce said the majority of their members were small businesses that rely on the State Fund for workers' compensation insurance. They propose the legislature does not give the State Fund a competitive advantage.

Jacqueline Lenmark, American Insurance Association said they support the section of the bill which relates to volunteers. They have no position on the remaining portion of the bill. With respect to private carriers being able to invest in common stock, there are a number of other requirements contained in the insurance code limiting the type of common stock which may be invested in.

Opponents' Testimony:

None.

Informational Testimony:

Montana Board of Investments, EXHIBIT 5

Questions From Committee Members and Responses:

REP. JON ELLINGSON asked about the adequacy of the 15% figure and how this figure was determined. **Mr. Swanson** said the investment return is low in comparison to other state funds. They are investing in equities. The Montana Insurance Commission has regulations on domestic insurance carriers which is 10% private corporate stocks, 5% in mutual funds which could include corporate stocks.

TAPE 2, SIDE A

REP. ROD MARSHALL asked what the certain conditions were in the investment of stock and its type. **Carroll South, Executive Director, Board of Investments,** said the first part of the bill is a citation from the Constitution and it refers to a unified investment program. In 1972, after the Constitution was ratified, the legislature enacted legislation creating the Board of Investments which was a nine-member board with the members appointed by the Governor. They do not serve at the pleasure of the Governor but serve their entire term. It is a very conservative board. The State Fund is the fourth largest customer. The Board does have a monopoly. State agencies must invest in investment programs. The total invested funds, under the supervision of the Board of Investments, at FY94 was $4.8 billion market value. By source, the pensions are the largest component at 56% trust which is comprised of the school, permanent coal trust, resource indemnity trust and smaller trusts which comprise 20%. Insurance which includes the State Fund include 8% of the total fund. 58% of the total fund is invested in fixed income. Fixed income instruments are debt instruments that have a maturity of one year or more as opposed to cash equivalents which have a maturity date of one year or less at the time of purchase. Equities are 21% of the total fund and included in that equity portion are common stock, convertible bonds, preferred stock and alternative equities which include leverage buy-outs and venture capital in two pension funds. The smallest component is mortgages and loans which include residential mortgages purchased by the two largest pension funds for asset allocation purposes and also all loans made out of the Coal Trust Fund.

Closing by Sponsor:

The sponsor closed.

HEARING ON HB 463

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Lewis and Clark County, said this bill was an act submitting to the qualified electors of Montana an amendment to Article VIII, Section 13, of the Montana

Constitution to allow state compensation insurance fund money to be invested in private corporate capital stock.

Proponents' Testimony:

Carl Swanson, President, State Fund, stated his support of this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

The sponsor closed.

VICE CHAIRMAN MILLS relinquished the chair back to **CHAIRMAN SIMON**

EXECUTIVE ACTION ON HB 463

Motion: **REP. EWER MOVED HB 463 DO PASS.**

Discussion:

REP. PAVLOVICH questioned the stocks which would be invested.

REP. EWER said the bill does not specify what stocks and what kind of framework. The framework is established.

REP. ELLIS said he supported this bill but wanted it noted that some members have the Constitutional amendments have "party line" torpedoed in this session and thinks the committee should be more concerned.

Vote: **Motion carried 18-0 on HB 463.**

EXECUTIVE ACTION ON HB 462

Motion: **REP. EWER MOVED HB 462 DO PASS. REP. EWER MOVED THE #1 MCCLURE AMENDMENT.**

Discussion:

REP. EWER explained the amendments.

Vote: **Motion carried on the #1 McClure amendment 18-0**

Motion: **REP. EWER MOVED THE #2 MCCLURE AMENDMENT.**

Discussion:

REP. EWER explained the second amendment.

CHAIRMAN SIMON stated this electorate would not be able to vote on the amendment until the general election.

Steve Maly stated this amendment is technically not a requirement for any fiscal impact bill.

REP. EWER withdrew the amendment.

Motion: **REP. EWER MOVED THE MARSHALL AMENDMENT.**

Discussion:

REP. EWER explained the amendment.

REP. ELLINGSON said by reason of the amendment at any given one date there is a book value of the investments. At that time, the Board of Investments wants to make an investment. It cannot invest more than 2%. If it doubles and goes up to 4%, it is not necessary to sell off in order to stay within the status which had been proposed.

REP. EWER said 2% of the State Fund's total invested assets is not exceeded at the time of purchase.

CHAIRMAN SIMON said since this is really an amendment to the conceptual amendment, and without objection, this should be included with **REP. EWER'S** first amendment as a part of the conceptual amendment.

REP. EWER withdrew his amendment since it was going to be a part of his first amendment.

Motion/Vote: **REP. EWER MOVED HB 462 DO PASS AS AMENDED. Motion carried 18-0.**

EXECUTIVE ACTION ON HB 428

Motion: **REP. EWER MOVED HB 428 DO PASS. REP. EWER MOVED THE INDEPENDENT BANKERS ASSOCIATION AMENDMENTS.**

Discussion:

REP. EWER explained the amendments from the Montana Independent Bankers Association.

Tom Hopgood explained further the amendments.

Vote: **Motion carried on the amendments 18-0.**

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 2-13-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 462** (first reading copy -- white) **do pass as amended.**

Signed: _____
Bruce Simon, Chair

And, that such amendments read:

1. Title, line 9.
Following: "39-71-118,"
Insert: "39-71-743,"

2. Page 4, line 14.
Insert: "**Section 2.** Section 39-71-743, MCA, is amended to read:
"**39-71-743. Assignment or attachment of payments.** (1) ~~No payments~~ Payments under this chapter ~~shall~~ may not be assignable, subject to attachment or garnishment, or ~~be~~ held liable in any way for debts, except:
(a) as provided in 71-3-1118; ~~or~~
(b) a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; or
(c) as provided in 53-2-612 or 53-2-613 for medical benefits paid pursuant to chapter 71 or 72 of this title.
(2) Payments under this chapter are subject to assignment, attachment, or garnishment for child support as follows:
(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated by the department of social and rehabilitation services pursuant to 40-5-209; or
(b) for any lump-sum award, an amount up to that portion of

Committee Vote:
Yes 18, No 0.

381335SC.Hbk

the award that is approved for payment on the basis of a past-due child support obligation.

(3) After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. Except as provided in 39-71-704(7), a fee or charge is not payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer.""

Renumber: subsequent sections

3. Page 4, line 25.
Following: first "fund"
Insert: "common stock"
Following: second "of the"
Insert: "state"
Following: "fund"
Insert: "total invested assets"

4. Page 4, line 26.
Following: first "the"
Strike: "stock of"
Insert: "book value of common stock investments in"
Following: "fund"
Insert: "total invested assets on the date of purchase"

-END-

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor DATE 2-13-95

BILL NO. 462 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Bob Worthington	MMIA	✓	
Oliver Goo	MSGIA - MMIA	✓	
Carl Vermoy	Stake Fund	✓	
David Owen	MT Chamber	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.